

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

JOHN D. AHERN,	§	
	§	
Petitioner,	§	
	§	
V.	§	Civil Action No. 4:14-CV-466-Y
	§	
UNITED STATES,	§	
BUREAU OF PRISONS,	§	
	§	
Respondents.	§	

OPINION AND ORDER

Before the Court is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 filed by Petitioner, John D. Ahern, a federal prisoner confined in FCI Beaumont in Beaumont, Texas.

After having considered the pleadings and relief sought by Petitioner, the Court has concluded that the petition should be dismissed without prejudice for lack of jurisdiction.¹

I. Factual and Procedural History

Petitioner is currently serving a combined 45-month term of imprisonment on his 2012 convictions for failing to register as a sex offender and aggravated identity theft in the Corpus Christi division of the United States District Court for the Southern District of Texas. (J. in a Criminal Case, *United States v. Ahern*, Criminal Docket No. 2:11-cr-333-1, ECF No. 39.) FCI Beaumont is located in the Beaumont division of the United States District Court for the Eastern District of Texas.

¹Petitioner did not pay the \$5.00 filing fee or file an application to proceed in forma pauperis.

II. Discussion

The only district that may consider a habeas-corpus challenge pursuant to § 2241 is the district in which the prisoner is confined at the time he files his § 2241 petition. *Rumsfeld v. Padilla*, 542 U.S. 426, 442-43 (2004); *Lee v. Wetzel*, 244 F.3d 370, 375 n.5 (5th Cir.2001). Petitioner is not confined in this district nor was he confined in this district when he filed his petition. Therefore, this Court lacks jurisdiction over his § 2241 petition.

The Fifth Circuit has determined that a district court lacking jurisdiction over a § 2241 petition has no authority or "discretion" to transfer the petition to the proper district. See *Lee*, 244 F.3d at 373-74. Instead, the Fifth Circuit mandates that the district court dismiss the petition without prejudice, so that a petitioner "may file the petition in the appropriate court if he desires." *Id.* at 375. Accordingly, the Court must dismiss Petitioner's petition. If he desires, he may file a § 2241 petition in the Eastern District of Texas, Beaumont division, where he is confined.

For the reasons discussed, the Court DISMISSES Petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 without prejudice for lack of jurisdiction.

SIGNED June 25, 2014.


TERRY R. MEANS
UNITED STATES DISTRICT JUDGE